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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,418	07/20/2001	Matthew D. Ferris	2316.1563US01	2646
23552	7590	12/16/2003	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				HARRINGTON, ALICIA M
ART UNIT		PAPER NUMBER		
		2873		

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/910,418	FERRIS ET AL.
	Examiner	Art Unit
	Alicia M Harrington	2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on RCE and amendment filed on 9/24/03.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-38 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1-10, 19-23 and 28-38 is/are allowed.

6) Claim(s) 11, 13-15, 24 and 27 is/are rejected.

7) Claim(s) 12, 16-18, 25 and 26 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 7/20/01 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 0903.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 11, 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Vander Velde (US 6,437,244).

Regarding claim 11, Velde discloses a cover plate (40) having first and second opposite edges,

a first pivot post (42) disposed along the first edge of the cover plate and defining a first axis of rotation (44 or 36- see figure 3);

a second pivot post (44) disposed along the second edge of the cover plate, the second pivot post being parallel to the first pivot post and defining (cover plate can be open either side -see figure 6 and 9) a second different axis of rotation;

wherein the cover plate defines at least one slot (opening in pivot post for receiving element 34) along each pivot post, the cover plate being configured to selectively pivot about each of the first and second axes of rotation (see figure 2; col. 3, lines 30-65).

Regarding claim 13, Velde discloses a cover plate defines a uniform cross-section except for the slots (see figure 2).

3. Claims 14, 15, 27 are rejected under 35 U.S.C. 102(e) as being anticipated by VanderVelde et al (US 6,437,243).

Regarding claim 14, VanderVelde discloses a hinge piece for hingedly mounting a cover plate with a pivot member to a cable trough, the hinge piece comprising: first and second arms (58,54-see figure 5) coupled by a middle member (52), the arms and middle member together forming a U-shaped recess for receiving a sidewall (26) of the trough between the first and second arms; and a detent pocket (50-col.), lines 34-57) for releaseably receiving the pivot member.

Regarding claim 15, the hinge piece of claim 14, wherein the detent pocket (50) includes first and second opposed extension members each having a retaining boss projecting toward an interior of the pocket (see col. 5, lines 33-45).

Regarding claim 27, Vander Velde discloses a method of covering a cable trough having two sidewalls, the method comprising the steps of:

providing at least one hinge piece (44) having a detent pocket (52) and first and second arms (54,58) coupled by a middle member, the arms and middle member together forming a U-shaped recess (see figure 5);

Positioning the hinge piece so one of the sidewalls of the cable trough is received in the U-shaped recess (see figure 3 and 7);

providing a cover plate(34) having a pivot member along at least one edge;

snapping the pivot member of the cover plate into the detent pocket of the hinge piece (see figures 3, 6, and 7).

4. Claim 24 is rejected under 35 U.S.C. 102(e) as being anticipated by Carlson Jr. et al (US 5,942,729).

Regarding claim 24, Carlson discloses a hinge pedestal (integrated with the trough) for mounting a cover plate with a pivotal member to a cable trough, the hinge pedestal comprising:

a base (bottom of the recess 46);  
an upstanding (42 or 44) wall extending from the base, the upstanding wall defining at least one pocket sized to receive the pivot member of the cover plate so that the cover plate (see figure 4) may be releasably received in the pocket and so that the cover plate may be rotated relative to the upstanding wall by rotation of the pivot member within the pocket (see col.3, lines 10-40).

### ***Allowable Subject Matter***

5. Claims 1-10,19-23,28-38 are allowed.

6. Claims 12,16-18,25,26 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 1, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to

teach a combination of all the claimed features as presented in independent claims, which at least include the hinge member include two arms coupled by a middle arm forming a U-shaped recess for receiving the sidewall of the trough.

Regarding claim 12, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which at least include a plurality of slots along each pivot posts.

Regarding claim 16, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which at least include a push tab extends from the second extension member wherein pushing the push tab the second extension member may be flexed away from the first extension member as claimed.

Regarding claim 17, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which at least include an interior side of the second arm includes retention tab having a ramped surface.

Regarding claim 18, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims,

which at least include one of the first and second arms defined an aperture for fastening the hinge piece to the side wall of the trough as claimed.

Regarding claim 19, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which at least include a hinge pedestal including an extending body having first end and second end, a base portion positioned at the second end of the extending body and secured to the base of the cable trough and receiving structure positioned at the first end of the extending body, the receiving structure defining a detent pocket as claimed.

Regarding claims 21, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which include the hinge member include two arms coupled by a middle arm forming a U-shaped recess for receiving the sidewall of the trough.

Regarding claim 25 and 33, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which at least include the upstanding wall defined two pockets.

Regarding claim 26, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to

teach a combination of all the claimed features as presented in independent claims, which at least include an adhesive disposed on the bottom surface of the base.

Regarding claim 28, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which at least include first hinge member and second hinge member as claimed.

Regarding claim 30, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which at least include hinge member defining a detent pocket, the hinge member being selectively positioned along the top edge of the side wall of the cable trough as claimed.

Regarding claim 34, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims, which at least include a hinged pedestal have a base portion secured to the base of the cable trough at a central region located between the side walls, and extending body extending away from the base portion, the extending body defining a pocket as claimed.

Regarding claim 35, prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the dependent claims, in such manner that a rejection under 35 U.S.C 102 or 103 would be proper. The prior art fails to

teach a combination of all the claimed features as presented in independent claims, which at least include a hinge member including first and second arms coupled by a middle member to form a U-shaped recess for receiving a side wall of the trough between the first and second arms as claimed.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M Harrington whose telephone number is 703 308 9295. The examiner can normally be reached on Monday - Thursday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 703 308 4883. The fax phone number for the organization where this application or proceeding is assigned is 703 872 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

Alicia M Harrington  
Examiner  
Art Unit 2873



AMH



Georgia Epps  
Supervisory Patent Examiner  
Technology Center 2800